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Concluding observations on the sixth periodic report of Italy

Addendum

Information received from Italy on follow-up to the concluding observations*

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National human rights institution

Recommendation para. 7. The State party should expeditiously establish a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

1. The opening of the new parliamentary term (Legislature XVIII) will begin, on March 23, 2018, following general political elections held last March 4, 2018.

2. CIDU, as per its own mission and in its capacity as National Mechanism for Reporting and Follow-up (NMRF), takes this opportunity to reaffirm its full and constant commitment to working, at all institutional levels, including at the Parliament level, towards the establishment of a fully independent National Human Rights Institution (NHRI).

Migrants, asylum-seekers and refugees

Recommendation para. 25. The State party should:

(a) Implement Law No. 67/2014 with a view to abrogating the crime of irregular entry and stay;

(b) Refrain from carrying out the collective expulsion of migrants, ensure that all expulsion orders are based on an individual assessment of each migrant's situation, taking into account the person's special protection needs, ensure that bilateral and multilateral agreements are applied in such a way as to guarantee full respect of Covenant rights and strict compliance with the principle of non-refoulement, aad suspend any agreement that does not include effective human rights protections;

(c) Ensure that immigration detention is only applied for the shortest period possible and as a measure of last resort, after it has been determined, on a case-by-case basis, to be strictly necessary, proportionate, lawful and non-arbitrary;

(d) Strengthen its efforts to increase the number of available places in reception centres and take all measures necessary to improve, without delay, the conditions therein;

(e) Fully implement the standard operating procedures at hotspots and provide in all first-level reception centres information and legal aid, where necessary, in relation to the pre-identification and identification procedures and the asylum procedure.

3. By Legislative Decrees No. 7 and No. 8, dated 15.01.2016 (and entered into force on 6.02.2016), the Delegation for the reform of the sanctionary regime pursuant to Article 2 of Act No. 67 of 2014 has taken place. This reform marks a withdrawal of criminal law to the advantage of administrative law and civil law.

4. In general:

i) Legislative Decree No. 7, dated January 15, 2016, introduces the new institute of the tort subjected to civil pecuniary sanctions, which, in the foreseen cases, replaces the criminal offense. It potentially opens up interesting new scenarios for the future criminal policy aimed to reducing the area of criminal law, in accordance with the principle of subsidiarity of the penal sanction.

- As a way of examples, the crime of "insult" lost the nature of a criminal offense to keep the one of a tort to be sanctioned, in addition to compensation for damages (private law-type sanction), with a civil pecuniary sanction (similar to the *punitive damages* of common law systems) imposed by the civil justice and then devolved to the Fund of Fines (*Cassa delle Ammende*).

ii) Legislative Decree No. 8/2016, dated January 15, 2016, performs the decriminalization, namely the transformation of the crime into an administrative offense. The intervention concerns the crimes punished by the pecuniary sanction (fine or penalty)

— including those ones that under aggravated circumstances are to be punished with a custodial sentence, be it alone, be it alternative, or be it joint with the pecuniary sanction (in such cases, by legislative provision, the aggravated circumstances not falling within the decriminalization are to be considered "autonomous offenses") — with the exception of some crimes as expressly referred to.

- Among the crimes excluded from the decriminalization process, mention has to be made of: the crimes punished with the pecuniary penalty only, as envisaged by the Unified Text on Immigration (acronym in Italian, TUI); in particular, the conduct of non-compliance with the order of removal of the Police Head (*Quaestor*) pursuant to Art.14, para.5*ter*; and the irregular entry and stay in Italy pursuant to Art.10*bis* of the Unified Text on Immigration (acronym in Italian, TUI).

5. In general terms, it is worthy of note that Art.19 of the amended Legislative Decree No. 286/98 (TUI) expressly prohibits expulsion and refoulement towards a State in which the foreigner risks being persecuted; and collective expulsion is not foreseen in the Italian legal system.

- More in detail, in accordance with the legislation in force — which has implemented Directive 2008/115/EU[1] —, Art.13, paragraph 2 of the TUI envisages that **the Prefect orders the expulsion, on a case-by-case basis**. More precisely, Decree-Law No. 89/2011, converted into law by Act No. 129/2011, has made changes to the TUI by introducing an expulsive mechanism of an increasing gradual intensity nature, based precisely on the examination case-by-case, through appropriate interviews about the position of each foreigner to be repatriated, thus harmonizing the national legislation with the principles of Directive 2008/115/EU. Indeed, this last EU text, under recital 6, is clear as for the emphasis on the opportunity for Member States to put an end to the irregular stay of third-country nationals, in accordance with a case-by-case type-procedure and taking into account objective criteria — and thus, not to be limited to taking into consideration the irregular stay, only.

- The Italian legal system, by virtue of the provisions referred to above, provides, therefore, that the expulsion measure is adopted on the basis of an assessment of the individual personal position — and never in a systematic way, against irregular foreigners being present on the national territory.

6. This framework is confirmed by other provisions of the domestic framework, including, as follows:

- Article 13, paragraph 2*bis* of the TUI, which provides for limits on the adoption of expulsion measures against the foreigner who has exercised the right to family reunification or of the reunited family member (in accordance with Article 29 TUI), having to take into account in these cases also the nature and effectiveness of the family ties of the person concerned, the length of the stay in the national territory, as well as the existence of family, cultural or social ties with the country of origin;

- Article 19, paragraph 2 of the TUI, which provides expulsion bans for certain categories of foreigners, such as foreigners under the age of eighteen, foreigners holding a residence permit, foreigners living with relatives within the second degree or with the spouse of Italian nationality; pregnant women or in the six months following the birth of the child they care for.

7. As anticipated, the procedure under reference is structured as **an expulsion mechanism with increasing gradual intensity**, which provides that a deadline may be granted, if the conditions for the immediate escorting to the border are not met, upon request by the person concerned, for voluntary departure ranging between 7 and 30 days, to be extended under given conditions related to the particular personal and family conditions of this person. More specifically, Decree-Law No. 89/2011, converted into law by Act No. 129/2011, provides for the alien to be granted a term for voluntary departure (and not

[1] **Directive 2008/115/EU**, on "Common standards and procedures in Member States for returning illegally staying third-country nationals"

his/her immediate escorting to the border), provided that there is no risk of affecting his/her actual return to the country of origin or to another State and provided that the term to leave voluntarily has been explicitly requested by the person concerned. For the acquisition of this request by the foreigner, a specific information sheet has been prepared.

8. Furthermore, it is important to point out in the context of the broader assessment of the personal situation of the person concerned that **particular safeguards are provided for certain categories of persons** in the event of rejection or of execution of expulsion, such as members of single-parent families, victims of severe psychological, physical or sexual violence, and so forth.

9. In light of the above, specific instructions have been issued to the local Police offices so that:

- The position of the foreigner who stays irregularly on the national territory is carefully evaluated;
- The foreigner is interviewed in order to highlight the information necessary to ensure the completeness of the investigative activity and in order to ensure the possibility of expressing and reporting any situations of vulnerability or need for protection;
- Particular attention is paid to the illustration of the reasons behind the motivation of every measure so adopted.

10. Within this framework, it is to be reported that during the landing events at *the Hotspots* of the ports concerned, the "Standard operating procedures"[2] are fully applied; and **adequate information is provided to migrants**, also with the support by international organizations, such as UNHCR, EASO, IOM, since they have been institutionally involved in the procedures under reference.

11. With regard to bilateral and multilateral agreements to be implemented in full compliance with the principles of respect for human rights and of non-refoulement, it is worthy of mention that all agreements signed by Italy in the immigration, repatriation, and asylum sector comply with international and European Conventions in the field of human rights — They are binding legislation within the national legal framework.

12. The so-called "Administrative detention" at a repatriation centre (in Italian, CPR), which must be validated by the judicial authority within forty-eight hours from its execution, is foreseen in our legal system (Article 14 TUI) for a maximum of thirty days, extendable for further thirty days, upon judicial measure, at the request of the administrative authority responsible for carrying out the expulsion. Further extensions, in any case no later than ninety days, can be authorized by the judicial authorities only if "concrete elements have emerged that make it possible to consider the identification of the foreigner probable or when repatriation operations are to be organized".

13. More specifically, the administrative detention at a closed centre, so-called, "**Centre of Permanence for Repatriation (in Italian, CPR)**" pursuant to Article 14 of the amended Legislative Decree No. 286/1998 (TUI) envisages the retention (*trattenimento*) of the foreigner in these Centres as a last resort (*extrema ratio*), to be adopted in cases in which no less afflictive remedies are available.

14. This provision, in line with the expulsion system described above, imposes strict limits on the retention (*trattenimento*) of the migrant for expulsion purposes, in compliance with the general constitutional guarantees concerning the respect for the principle of personal liberty. It makes the adoption of the retention measure (*trattenimento*) dependent on, as follows:

[2] The *Standard Operating Procedures* (SOPs) have been drafted by the Department for Civil Liberties and Immigration and the Department of Public Security of the Ministry of Interior, with contribution from Frontex, EASO and Europol, as well as from UNHCR and IOM. These SOPs are to be considered an analytical operational guidance for the activities organized within the Italian *Hotspot* and for the description of roles that various stakeholders play in these facilities. SOPs have been transmitted to both Prefectures and Police HQs, of those municipalities where *Hotspots* are located.

- Specific pre-requisites: only in those cases when it is not possible to immediately execute the expulsion by escorting to the border, due to transitional situations that hinder the preparation of repatriation, [3] the Quaestor provides for retention (*trattenimento*) at CPRs located on the national territory where places are available;
- Prior validation by the Judicial Authority: the measure by which the Quaestor states that the foreigner is to be held at a CPR is validated by the judicial authority, in compliance with the Italian Constitution provisions concerning the measures restricting personal liberty (Article 13, paragraphs 3 and 4, of the TUI);[4]
- Mandatory time limits: the validation triggers the stay in the Centre for a period of thirty days. Should the assessment of identity and nationality or the acquisition of travel documents encounter serious difficulties, the Judge may extend, upon Quaestor's request, the deadline for an additional thirty days. Even before this deadline, the Quaestor carries out the expulsion or rejection giving notice without delay to the Judge. Once this deadline elapses, the Quaestor can ask the Justice of the Peace for one or more extensions if concrete elements emerge that make it possible to deem identification probable or necessary to organize repatriation operations. In any case, the maximum period of retention of the foreigner within CPRs cannot exceed ninety days.

15. The foreigner who has already been retained (*trattenuto*) at the prison facilities for a period equal to ninety days may be held at the Center for a maximum period of thirty days. This last term may be extended by 15 more days, upon validation by the Justice of the Peace, in cases of particular complexity relating to the procedures for identifying and organizing repatriation (Article 13, paragraph 5, TUI).

16. The recent legislation on international protection also includes specific cases, under which the foreigner requesting international protection is also retained (*trattenuto*) at a CPR:[5] in such cases, the maximum duration of retention (*trattenimento*) cannot exceed a twelve-month period (Article 6, paragraph 8 Legislative Decree No. 142/2015).

17. Adoption of alternative measures, when the foreigner holds a valid passport or other equivalent document and the expulsion has not been arranged on the ground of danger (pursuant to Article 13, paragraphs 1 and 2, letter c, of TUI or pursuant to Article 3, paragraph 1, of Law-Decree No. 144/2005 as converted with modifications in law by Act No. 155/2005), and the Quaestor, in lieu of the retention referred to in paragraph 1, may apply one or more of the following alternative measures to retention (*trattenimento*): a) Delivery of a valid passport or other equivalent document, to be returned upon departure; b) Obligation of residence at a previously identified place where the foreigner can easily be traced; c) Obligation of presentation in given days and times at a territorially competent law enforcement office. The aforementioned measures are adopted by a substantiated decision, as validated by the judicial authority (territorially competent Justice of Peace). The measures, upon request by the person concerned, after hearing the Quaestor, may be modified or revoked by the Justice of the Peace (Article 14, paragraph 1*bis*, TUI).

18. The aforementioned closed facilities are also subject to constant checks by the competent Authorities of the provincial and national levels, as well as by national and international supervisory bodies, with regard to both the compliance with the regulations and the operating procedures and the quality standards of the reception measures.

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[3] Transitional situations that hinder repatriation fall within the framework of relief activities for the foreigner or of additional investigations concerning his/her identity or nationality or to get either travel documents or an adequate transportation mean.

[4] Article 13 of the Italian Constitution envisages that relevant measure must be communicated to the Judicial Authority within 48 hours and that the latter validates it within the following 48 hours.

[5] These cases, as envisaged by Article 6 of Legislative Decree No. 142/2015, are linked to circumstances when it may be alleged that international protection seeker perpetrated a serious crime or there are public order or safety reasons or State security or the foreigner is dangerous vis-à-vis public security or public order, as emerged from a danger risk assessment or from the risk of absconding. It is to be stressed that the international protection seeker remains at a CIE waiting for the implementation of an expulsion measure when there are substantiated grounds to deem that the application has been submitted for the purpose of delaying or halting the enforcement of the above measure, only.

Unaccompanied minors

Recommendation para. 27. The State party should:

(a) Ensure that the age assessment procedure is based on safe and scientifically sound methods, taking into account the children's mental well-being;

(b) Review the guardian assignment procedure to ensure that each unaccompanied minor is provided with a legal guardian in a timely manner;

(c) Ensure adequate conditions for unaccompanied minors in reception facilities, including their segregation from adults;

(d) Take the measures necessary to prevent the disappearance of children and to find the whereabouts of those already missing.

19. Since the entry into force of Act No. 47/17, the Department on Civil Liberties and Immigration of the Ministry of Interior and the Ministry of Health have agreed upon an Age Assessment Procedure in accordance with the principles set by the new Law; the procedure shall be agreed by all institutional stakeholders involved and then be submitted to the State-Regions Conference, for approval.

20. Meanwhile, different age assessment procedures are carried out in respect of the current regulations: at Lampedusa and Trapani Hotspots, during the period Aug. 1, 2017–Dec. 31, 2017, an INMP unit[6] (a National Institute promoting health and fighting diseases due to poverty) had been operational and conducted a multidisciplinary process to assess the age.

21. At present, the European Commission is considering the financing of the project SAVE, as proposed by the Ministry of Interior, the Ministry of Health, and INMP, which envisages the presence of INMP staff and operators of Local Health Units (ASL) in every Hotspot so as to standardize the age assessment procedure, under the current regulations — pending the approval of the said Procedure by the State-Regions Conference.

22. At a legislative level, Act No. 47/2017, dated 7 April 2017 (and entered into force on 22 April 2017), amends the current legislation on unaccompanied foreign minors being present in Italy, with the aim of strengthening protection for minors and of ensuring uniform application of the rules for reception on all national territory. By doing so, the pathway already started during Legislature XVII with the approval of Legislative Decree No. 142/2015 implementing Directive 2013/33/EU on the reception of refugees and applicants for international protection has been completed.

23. Pursuant to Article 26, paragraph 5 of Legislative Decree No. 25/2008, the application for the recognition/granting of international protection can also be submitted directly by the minor. In this case, however, the receiving authority must suspend the proceedings and immediately communicate this circumstance to the juvenile court and to the tutelary judge, for the opening of protection pathways and for the appointment of a guardian.

24. Law stipulates that the tutelary judge must provide for the appointment of the guardian within forty-eight hours following receipt of the communication. Subsequently, the guardian, as soon as appointed, must promptly contact the child and inform him/her about his/her appointment, also for the purposes of confirming the application for the granting/recognition of the international protection that may have already been possibly presented directly by the minor.

25. In order to avoid, due to the ever increasing migratory flow of unaccompanied foreign minors, the danger of time limits expansion for the protection procedure to be initiated by the tutelary judge — which may lead to a deadlock in the procedure for the recognition/granting of international protection, as well as for the adoption of all measures that make effective the rules for the promotion of the best interests of the child —, Act No.

[6] INMP is a juridical person of public law, with fiscal, administrative and organizational autonomy, and it is supervised by the Ministry of Health. INMP is mandated to promoting aid and care, research, and training activities for the health of migrant populations and to combat poverty-related diseases.

47/2017 introduces under Article 26, paragraph 5, of the above-mentioned Legislative Decree, the provision that the Police HQs., or anyway the Authority that has received the request for international protection directly by the minor, also informs the person in charge of the reception structure where the child is housed.

26. In accordance with Article 3 of Act No. 184/1983 (the law referred to in Article 26), the facility's manager "exercises the tutelary powers over the minor entrusted to the facility... until the guardian is appointed". This allows avoiding that the possible protracted time for the appointment of the guardian can go to the detriment of the speed of the procedure for the recognition/granting of the international protection requested by minors and to the detriment of the effectiveness of their protection.

27. Inspired by the same need to avoid gaps in protection is the provision of Article 10 of Law 47/2017, applicable to all unaccompanied minors, and not only to those applying for international protection. It states that "in the case of unaccompanied foreign minor traced in the national territory and reported by the competent authorities, the residence permit for minor age is issued at the request of the same child, directly or through the person with parental authority — even before the appointment of the guardian pursuant to Art.346 civil code; and this is valid until the coming of age".

28. More specifically, with regard to the assessment of the age of unaccompanied foreign minors, a new regulation has been recently introduced (Article 19*bis* of Legislative Decree No. 142/2015, as introduced by Act No. 47 of 2017), which phases it. In particular, paragraph 6 of Article 19*bis* provides that "the social and health assessment of age must be carried out in a suitable environment, in a multidisciplinary fashion, by appropriately trained professionals and, where necessary, in the presence of a cultural mediator, using methods that are the least invasive possible and respectful of the presumed age, sex and physical and psychological integrity of the person. No social-health tests must be carried out that could affect the psycho-physical situation of the person".

- In a nutshell, with regard to "the identification of unaccompanied foreign minors (Art.5)", Act No. 47/2017 introduces Article 19*bis* of Legislative Decree No. 142/2015, to establish, inter alia, multidisciplinary age assessment procedures conducted by appropriately trained professionals, assisted by cultural mediators.

29. More generally, to unaccompanied foreign minors it is applicable the domestic legislation on assistance and protection of minors, in particular Legislative Decree No. 142/2015 on "Implementation of Directive 2013/33/EU on rules on the reception of applicants for international protection, as well as Directive 2013/32/EU, on common procedures for the purpose of recognition/granting and withdrawal of the status of international protection", which includes specific "Provisions on minors (Article 18)" and on "The reception of unaccompanied minors (Article 19)".

30. These provisions were supplemented by Act No. 47/2017 on "Provisions on measures to protect unaccompanied foreign minors", entered into force on 6 May 2017. In accordance with Act No. 47/2017, it is a foreign unaccompanied minor (acronym in Italian, *MSNA*), "the minor having no Italian citizenship nor European Union's who is for any reason in the territory of the State or who is otherwise subject to Italian jurisdiction, without assistance and representation from parents or other adults for him/her legally responsible, in accordance with the laws in force in the Italian legal system (Art.2)". By Art.3, it has been introduced the prohibition of rejection at the border of unaccompanied foreign minors, thus modifying TUI (Legislative Decree No. 286/1998): so when the expulsion of a foreign minor must be ordered, the measure can be adopted by the Juvenile Court, at the request of the Quaestor, "upon condition that the measure itself does not cause any risks of serious harm to the minor".

31. In particular, Article 5 provides that:

- The verification on the identity of the UAM is carried out by law enforcement authorities;
- If there are any doubts about the declared age, this can first be ascertained by means of a personal birth-related certificate, to be made available by also using the diplomatic-consular authorities channel;

- The intervention of the diplomatic-consular representation should not be requested in cases when the person concerned, alleging to be under age, has expressed his/her willingness to access international protection or when this need arises as a result of the interview, if dangers of persecution may result from such intervention; and, lastly, in cases when the minor declares s/he does not want to use it;
- In case of doubts based on the declared age, the Public Prosecutor's Office at the Juvenile Court can arrange social-health examinations aimed at ascertaining the age;
- If, even after the social-health assessment, doubts remain on the minor age, this is to be positively presumed to any legal effects.

32. Article 6 of the Law concerns "family-related inquiries", which are conducted upon the consent of the minor and in his/her exclusive interest by those who exercise, also temporarily, parental responsibility.

33. If suitable family members are identified to take care of unaccompanied foreign minors, this solution should be preferred to community placement.

34. Assisted and voluntary repatriation of an unaccompanied foreign minor can be adopted when reuniting him/her with family members in the country of origin or in a third country if it corresponds to the child's best interests. The measure is ordered by the Juvenile Court, after hearing the minor and the guardian and on the basis of the results of the family-related investigations and the report of the Social Services about the situation of the minor in Italy.

35. The Law provides for a "National information system for unaccompanied foreign minors" at the Ministry of Labour and Social Policies: immediately after the minor's interview, the reception facility will have to fill in a "social file", in which all the data and elements useful for determining the best long-term solution in the interests of the child will flow; the social file is sent to the Social Services of the municipality of destination and to the Public Prosecutor's Office at the Juvenile Court. For cases in which the law provides for the prohibition of rejection or expulsion, the Quaestor is required to issue a residence permit for minor age (valid up to the coming age) or for family reasons.

36. The guarantees provided for in Article 15 (Right to listen to unaccompanied foreign minors in the proceedings) and Article 16 (Right to legal assistance) must be emphasized: the former reiterates that "The emotional and psychological assistance for unaccompanied foreign minors is assured in every stage and degree of the proceeding by the presence of suitable persons, as indicated by the minor, as well as of groups, foundations, associations or non-governmental organizations with proven experience"; the latter (Right to legal assistance) indicates that "Unaccompanied foreign minor involved in any capacity in a judicial proceeding has the right to be informed of the opportunity of appointing a lawyer of his/her own choice, including through the appointed guardian or the person with parental responsibility (...) and to avail himself/herself of legal aid at the expense of the State in each state and degree of the proceeding, in accordance with the legislation in force".

37. Last but not least, it should be noted that the NGOs registered in the Register referred to in Article 42 of the Consolidated Immigration Act (TUI) may intervene in the judgments concerning unaccompanied foreign minors and resort to administrative jurisdiction for the cancellation of unlawful measures (Article 19).

38. Finally, Article 20 foresees "The closest international cooperation", to favour "an integrated approach of practices to ensure full protection of the best interests of the children".

39. On a more specific note, and more in detail, in order to ensure that guardians assist UAMs promptly and that they are skilled professionals, Act No. 47/2017 has foreseen new forms of recruitment and training of the persons concerned. Article 11 provides that a list of "voluntary guardians" be set up at each Juvenile Court at which private citizens may be enrolled, "as selected and adequately trained by the regional guarantors and the autonomous provinces of Trento and Bolzano for children and adolescents, available to take on the protection of unaccompanied foreign minors". This Law also prescribes that special

"memorandums of understanding to facilitate the appointment of guardians must be signed between the Juvenile Court and the guarantors/ombudsman for children".

40. In order to guarantee the timely appointment of guardians and to ensure that their protection is managed by a judge specialized in child matters, Legislative Decree No. 220/2017, modifying Article 19, paragraph 5 of Legislative Decree No. 142/2015, transfers the competence for the opening and management of the protection of the UAMs from the ordinary court to the juvenile court — the latter are already responsible for the keeping of the register and the ratification of the reception measures.

41. As a closing rule of this system, Article 11 of Act No. 47/2017 entrusts the National Ombudsman for Children and Adolescents, the power to monitor the implementation of the provisions relating to the training and recruitment of guardians for unaccompanied foreign minors.

42. Article 11 of Act No. 47/2017 also provides that each guardian can deal with up to three minors. This is meant to meet the need to prevent in the future that one guardian be compelled to handle too many children, without being able to follow each of them properly. However, a limit to the rigidity of this rule is provided for, but in exceptional cases only (i.e. the family situation of the minor (protection of several brothers or sisters or persons belonging to the same group of cohabitants) or external circumstances related to the temporary unavailability of a sufficient number of guardians to respect the maximum limit of three minors for each guardian).

43. An additional provision has been added to clarify the powers of the Ombudsman for the protection of children and adolescents, thus favouring the most rapid and prompt implementation of the legal framework aimed to protect unaccompanied foreign minors — besides making it more effective, at a national level and in relation with the European Institutions.

44. More specifically, the amendment provides for the Ombudsman for Children and Adolescents, with monitoring powers on the implementation of Article 11 of Act No. 47/2017 (concerning the training of voluntary guardians); and, relating to that, an obligation for the regional Guarantors and the Autonomous Provinces of Trento and Bolzano to collaborate and provide information on the activities, by sending bi-monthly reports on the initiatives carried out.

45. Act No. 47/2017 therefore envisages a single reception system, in which all unaccompanied foreign minors are welcomed into reception facilities "exclusively made for them". In this context, the obligation to hear the child "considering his/her age and maturity" has been introduced, as well as the guarantee of an interview with an evolutionary psychologist, and, when necessary, also in the presence of a cultural mediator.

46. Furthermore, as earlier reported, rules have been introduced which envisage, when possible, the carrying out of family inquiries, which guarantee the right of the child to the family unity, also through the research of his/her family members.

- To this end, Act No. 47/2017 provides for specific procedures for the completion of family enquiries aimed at assessing the possibility that the minor can reunite with members of his/her family (Article 6).
- In terms of alternatives to hospitality at reception facilities, Act No. 47/2017 (Article 7) provides for awareness-raising campaigns by local authorities, to promote the institute of family foster care for the UAMs "on a priority basis - if compared to admission to a reception facility".

47. More specifically, unaccompanied foreign minors cannot be forcibly returned and have the right to reception, in accordance with Legislative Decree No. 142/2015 and Act No. 47/2017 and subsequent modifications, as well as the Decree of the Minister of the Interior issued, in tandem with the Minister of Finance (published on the Official Journal on September 8, 2016), which set up the procedures relating to UAMs' reception and to those services to be supplied both in temporary reception centres and in government reception ones.

48. Moreover, in Italy any unaccompanied minor is hosted in open-tailored facilities where s/he is allowed to move in and out, in compliance with the rules set by the person in charge of him/her. Moreover, in accordance with legislation in force, the foster person in charge of an unaccompanied minor must immediately report to the Police any case when the minor is missing so as to start his/her search as soon as possible; and in many cases, the missing minor is traced back.

- UAMs, mostly aged between 16 and 18, usually go missing because they try to continue along their migration route towards different destinations.

49. Since 2017, the Department on Civil Liberties and Immigration of the Ministry of Interior has been promoting the PUERI Project (Pilot Action for UAMs: Early Recovery Interventions), an EU-co-funded project aimed at gathering information on UAMs soon after landing in the Hotspot and during the three following meetings with minors in receptions centres, so as to assess their needs and conditions. Teams are composed by: social workers; psychologists; cultural-linguistic mediators; and, eventually, guardians. The project is still under way. The results of the assessment will help setting up an individual minor tailor-made reception pathway and to address him/her towards adequate second-assistance and integration, thus discouraging probable cases of missing persons.

50. Furthermore, Act No. 47/2017, implementing Article 19, paragraph 5 of Legislative Decree No. 142/2015, establishes at the Ministry of Labour and Social Policies, the "National Information System for Unaccompanied Foreign Minors". In this information system, the reports by all relevant bodies or authorities about UAMs being present on the national territory will be archived, as well as the findings on age assessment made by the judicial authorities.

51. In doing so, the access to this IT system by the competent authorities will facilitate, by data cross-referencing, the identification of the UAMs that have escaped and withdrawn from the reception measures but being still present on the national territory.

- As earlier mentioned, it is worth-reiterating that Article 16 provides that the child involved in any capacity in a judicial proceeding has the right to be informed about the opportunity of appointing a lawyer of his/her own choice and of availing himself/herself — if the conditions are met — of legal aid at the expense of the State in each stage of the proceeding.

52. Within this framework, mention has to be made of Act No 46/2017 of conversion with amendments of Decree-Law No. 13/2017, entered into force on 19 April 2017. It contains urgent provisions for the speeding up of proceedings concerning international protection, as well as for the fight against illegal immigration.

53. One of the major innovations introduced by Decree-Law No. 13/2017 is the establishment at the ordinary courts of the place where Courts of Appeals are located, of specialized judicial sections on Immigration, International Protection and Free Movement of EU Citizens. They are entrusted with an expanded jurisdiction both *ratione materiae* and *ratione loci*, thus extending it towards a non-strictly territorial jurisdiction according to the districtual rules.

54. The specialized sections on Immigration, International Protection and Free Movement of Citizens of the European Union are composed of no less than three magistrates, of whom two judges and one section president.

55. The disputes regarding international protection before the new specialized Sections are regulated by the chamber proceedings (*procedimento camerale*) formula (with adversarial procedure in writing and a possible hearing) — rather than the interim proceedings (*procedimento sommario di cognizione*); and the suspension of the procedural terms does not operate during the vacation period (1–31 August).

56. To be admissible, the appeal against the recognition-related measures issued by the Commissions is proposed within 30 days from the notification (or 60 days if the applicant resides abroad) and can also be filed by post or by diplomatic or Italian consular representation; in this case the authentication of the subscription and the forwarding to the Italian judicial authority are carried out by the representatives of the permanent mission.

and the communications relating to the proceedings are carried out at the same mission; and the special power of attorney to the lawyer is issued before the consular authority.

57. Once the appeal has been lodged, a deadline is set for the deposit of statements of defence and of documentation, including the videotape file, by the Territorial Commission (within 20 days from the communication by the Registry), and for the party concerned to submit his/her own reply (within 20 days from the expiry of the deadline for entry of appearance by the Administration).

58. The oral hearing is foreseen when there are new elements; or it is essential to integrating the facts and the evidence attached to the appeal; and, in any case, when the judge, having viewed the videotape file, considers it necessary to orally hear the applicant or to request clarification from the parties.

59. The oral hearing is also scheduled when the party concerned has given a justified request and the judge considers the discussion of the procedure during a hearing being essential for the decision.

60. The chamber proceeding is defined by a decree within four months from the appeal; and this decree can only be challenged before the Supreme Court. The second instance trial before the Court of Appeal has been therefore eliminated.